

6-1-92

## AVIATION

### Transport Services

Agreement Between the  
UNITED STATES OF AMERICA  
and AUSTRIA

Amending the Agreement  
of March 16, 1989

Effectuated by Exchange of Notes  
Signed at Vienna June 1, 1992

*with*

Attachments



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—


“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”



## AUSTRIA

### Aviation: Transport Services

*Agreement amending the agreement of March 16, 1989.  
Effected by exchange of notes  
Signed at Vienna June 1, 1992;  
Entered into force June 1, 1992.  
With attachments.*



*The American Ambassador to the Austrian Minister for Foreign  
Affairs*

EMBASSY OF THE  
UNITED STATES OF AMERICA

No. 121

Vienna, June 1, 1992

Excellency:

I have the honor to refer to the March 16, 1989 Air Services Agreement between the Government of the United States of America and the Austrian Federal Government, with Annexes,<sup>1</sup> (the Agreement) and to the recent discussion held by representatives of our two governments in Washington, October 16-18, 1991, to consider revisions to the Agreement.

In the light of the agreements reached in these discussions, I have the honor to propose on behalf of the Government of the United States of America that the Annex I to the Agreement be deleted in its entirety and replaced by Attachment I to this note and that Attachment II to this note be added to the Agreement as Annex III.

If these proposals are acceptable to your government, I have the further honor to propose that this note and your Excellency's affirmative note in reply shall constitute an agreement between our two governments, which shall enter into force on the date of your Excellency's note in reply.

Accept Excellency, assurances of my highest consideration.

Enclosure: As stated.

His Excellency  
Alois Mock,  
Minister for Foreign Affairs,  
Republic of Austria.

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<sup>1</sup> TIAS 11265.

## ATTACHMENT 1

## Annex I

## Air Services

## Section 1

Airlines designated by a party for service under this Annex shall, in accordance with the terms of their designation, be entitled to perform international air services:

- 1) Between points on the following routes; and
- 2) Between points on such routes and points in third countries through points in the territory of the party that has designated the airlines.



Routes for the airline or airlines designated by the Government of the United States:

- (1) From the United States of America via intermediate points to Vienna and beyond.

(A) No more than five U.S. carriers may serve this route during the same traffic season, from which number no more than two such airlines may serve from New York during the same traffic season.

(B) Designated airlines of the United States may operate to a total of seven intermediate or beyond points of their choice with full traffic rights. These points may include Bucharest, Budapest, and one additional point in Albania, Bulgaria, Czechoslovakia, Estonia, Latvia, Lithuania, Poland, the Soviet Union or Yugoslavia.

(C) No more than one U.S. airline may operate with full traffic rights to any single intermediate or beyond point during the same traffic season, except that two U.S. airlines may operate with full traffic rights at Frankfurt. Exercise of traffic rights by two U.S. airlines at Frankfurt shall count as one choice against the total of seven intermediate or beyond points.



- (2) From a point or points in the United States of America via intermediate points to Austria.

(A) Route (2) may be used only for all-cargo service.

- (B) Only one U.S. airline may provide service from New York on this route.
- B. Routes for the airline or airlines designated by the Austrian Federal Government:
- (1) From Austria to New York.
  - (2) From Austria via two intermediate points with full traffic rights to three points in the United States of America to be named by the Austrian Federal Government and beyond with full traffic rights to one point to be selected from Canada, the Caribbean Islands or Mexico, to be named by the Austrian Federal Government.
- C. Each party shall permit the airlines of the other party to substitute intermediate and beyond points, subject to the conditions set forth in paragraph A and B, at the beginning of a traffic season upon sixty days' prior notice from the other party's aeronautical authorities.

## Section 2

Each designated airline may, on any or all flights and at its option, operate flights in either or both directions and without directional or geographic limitation, serve points on the routes in any order, and omit stops at any point or points outside the territory of the party which has designated that airline without loss of any right to carry traffic otherwise permissible under this agreement.

## Section 3

Each designated airline may, on any or all flights and at its option, change aircraft in the territory of the other party or at points in other countries, provided that:

- (A) With regard to change of aircraft in the territory of the other party, operations beyond the point of change of aircraft shall be performed by a single aircraft of capacity equal to or less, for services outbound from the homeland or equal to or more for services inbound, than that of the arriving aircraft; and
- (B) Aircraft for such operations shall be scheduled in coincidence with the inbound or outbound aircraft, as the case may be, provided, however, that if a flight is delayed by unforeseen operational or mechanical problems, the onward flight or flights may operate without regard to the requirements of this subparagraph.

#### Section 4

This Annex shall expire on June 2, 1994 unless otherwise agreed by the parties. The parties agree to consult one year in advance of the expiration date to determine whether the Annex should be extended or amended. Notwithstanding the expiry date of this Annex, services in operation for the summer traffic 1994 season will not be affected.

Nothing in this section is intended to modify any other provision of the Agreement regarding consultations, suspension, or termination of services, or termination of the Agreement.

## ATTACHMENT 2

I Annex III  
Charter Air Service

## Section 1

Airlines of one party designated under this Annex shall, in accordance with the terms of their designation, be entitled to perform international charter air transportation of passengers (and their accompanying baggage) and/or cargo:

- (A) Between any point or points in the territory of the party which has designated the airline and any point or points in the territory of the other party;
- (B) Between any point or points in the territory of the other party and any point or points in a third country or countries provided that such traffic is carried via the carrier's homeland and makes a stopover in the homeland for at least two consecutive nights.

In the performance of services covered by this Annex, airlines of one party designated under this Annex shall also have the right: (1) to make stopovers at any points whether within or outside of the territory of either party; (2) to carry transit traffic through the other party's territory; and (3) to combine on the same aircraft traffic originating in one party's territory with traffic that originated in the other party's territory.

Each party shall extend favorable consideration to applications by designated airlines of the other party to carry traffic not covered by this Annex on the basis of comity and reciprocity.

## Section 2

With regard to traffic originating in the territory of either party, each designated airline performing air transportation under this Annex shall comply with such laws, regulations and rules of the party in whose territory the traffic originates, whether on a one-way or round-trip basis, as that party now or hereafter specifies shall be applicable to such transportation. If one party applies more restrictive rules, regulations, terms, conditions or limitations to one or more of its airlines, the designated airlines of the other party shall be subject to the least restrictive of such rules, regulations, terms, conditions or limitations. Moreover, if either party promulgates regulations or rules which apply different conditions to different countries, each party shall apply the least restrictive regulation or rule to the designated airline or airlines of the other party.

Notwithstanding the above paragraph, nothing contained therein shall limit the rights of one party to require the designated airline or airlines of the other party to adhere to requirements relating to protection of passenger funds and passenger cancellation and refund rights, or adherence to requirements established in the interest of national security.

### Section 3

Neither party shall require a designated airline of the other party, in respect of the carriage of traffic from the territory of that other party on a one-way or round-trip basis, to submit more than a declaration of conformity with the laws, regulations and rules of that other party referred to under Section 2 of this Annex or of a waiver of these regulations or rules granted by the aeronautical authorities of that other party.

*The Austrian Minister for Foreign Affairs to the American  
Ambassador*

THE FEDERAL MINISTER  
FOR FOREIGN AFFAIRS

No. 224.53.3/14-III.7/92

Vienna, June 7th, 1992

Excellency,

I have the honour to acknowledge receipt of your note no. 121 of today, which reads as follows:

[For text of the U.S. note, see pp. 2-7.]

I have further the honour to state that these proposals are acceptable to the Austrian Federal Government and to agree that your Excellency's note and my reply constitute an agreement between our two governments, which enters into force with effect from today.

Accept Excellency, the assurances of my highest consideration.

[Signature]

His Excellency  
Roy Michael Huffington  
Ambassador of the United  
States of America  
*Vienna*